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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/867,908	05/30/2001	Mark R. Maguire	MAC0001.US	7527

7590

08/27/2002

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EXAMINER

ROWAN, KURT C

ART UNIT

PAPER NUMBER

3643

DATE MAILED: 08/27/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.  
09/867,908

Applicant(s)  
MAGUIRE et al.

Examiner  
KURT ROWAN

Art Unit  
3643



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 2 6) ☐ Other:

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## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 14-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. Claim 14 recites the limitation "said second member" in line 5. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-2, 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Norris.

The patent to Norris shows a retractable fishing net having a handle 1 with a grip end and a net end 2. Norris shows a retraction mechanism 8 slidably mounted on the handle and being movable

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between the grip and the net end. Norris shows a net support band 3 having first and second ends. Norris shows a netting 9.

6. Claims 1-4, 9, 10, 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Henson. The patent to Henson shows a retractable net having a handle 1, a retraction mechanism 17 slidably mounted on the handle and movable between the grip end and the net end. Henson shows a net support band 10 with a first band end and a second band end. Henson shows netting 15 mounted on the net support band. Henson shows a spring biased button 17 and a receiver hole 16.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1, 5-8, 14-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wearing in view of Phillips.

The patents to Wearing and Phillips show landing nets. Wearing shows a handle 3 with a grip end and a net end. Wearing shows a retraction mechanism 20 slidably mounted on the handle.

Wearing shows a net support band 40, 40 having first and second band ends each being mounted

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to the retraction mechanism. Wearing shows netting 5. The net support band is not a hoop shape. The patent to Phillips shows a net having a support band 32 in the shape of a hoop. In reference to claims 1, 14, it would have been obvious to provide Wearing with a hoop shaped net support band as shown by Phillips since merely one band is being replaced with another and the function is the same. In reference to claim 5, Wearing shows a T bar 30 mounted to the end of the handle. Wearing shows the T bar orthogonal to the handle and shows a first bar end and a second bar end (not labeled) with a first member and a second member extending therefrom defining first and second receivers 38, 39. Wearing shows the first band extending beyond the first receiver and the second band end extending beyond the second receiver. In reference to claims 8 and 17, Phillips shows the first member and the second member are each a set of rollers 18, 18. In reference to claims 9 and 18, Wearing and Phillips shows the net support band to be both resilient and flexible. In reference to claim 10, Wearing discloses that the net support band is composed of aluminum. In reference to claims 15-16, Phillips shows a button 88 as a releasable retention mechanism that is spring biased as at 90 and a receiver hole (not labeled).

9. Claims 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Henson. The patent to Henson shows a net as discussed above. Henson shows a single opening but it would have been obvious to employ two openings for multiplied effect. See *In re Harza*, 124 USPQ 378. Henson shows an anchor pin 7 and a hinge 9. Henson shows a net hook 3 coupled to the anchor pin with the net hook extending toward the net end of the handle. The handle includes a net end opening capable of receiving the netting there into.

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*Conclusion*

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents to Molloy, Delcey, Higginbotham, Walter, and Levy show other retractable nets.

11.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KURT ROWAN whose telephone number is (703) 308-2321.

The examiner can normally be reached on Monday-Thursday from 6:30 a.m. to 5:00 p.m.

The fax phone number for the organization where this application or proceeding is assigned is (703) 306-4195 or (703) 305-3597.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

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A handwritten signature in black ink that reads "Kurt Rowan". The signature is written in a cursive style with a large, stylized 'K' and 'R'.

KURT ROWAN

PRIMARY EXAMINER

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August 19, 2002